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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/497,244	02/03/2000	Russell Jarvors	3910.164	7255

7590 11/05/2004

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EXAMINER

DALENCOURT, YVES

ART UNIT PAPER NUMBER

2157

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/497,244	<b>Applicant(s)</b> JARVORS, RUSSELL	
	<b>Examiner</b> Yves Dalencourt	<b>Art Unit</b> 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2, 24 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 24, and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This office action is responsive to the Request of Continued Examination (RCE) filed on 07/20/04.

#### ***Response to Amendment***

The examiner has acknowledged the amended claims 2, 24, and 30.

#### ***Response to Arguments***

Applicant's arguments filed on 07/20/04 have been fully considered but they are not persuasive.

In response to Applicant's argument that the examiner is engaging in impermissible hindsight reconstruction of the present invention, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. In re McLaughlin, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971).

In this case, Sanders et al teaches all the limitations, except for a toy, and Applicant admits that it is desired in the toy vehicle business to replicate as much of the real vehicle as possible. Sanders shows real vehicle operations. Therefore, it would be obvious to replicate real vehicle operations as evidenced by Applicant's admitted prior art for the purpose of providing a toy vehicle security alarm system.

### ***Claim Objections***

Claims 2, 24, and 30 are objected to because of the following informalities: It is suggested to delete " as " (claim 24, line 1) and insert -- a --; " Said " (claim 24, line 3) and insert -- said --; " aa " (claim 30, line 1) and insert -- a --; " alarm " (claim 30, line 1) and insert -- alarm --. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 24, and 30 recite the limitation "said security alarm system " in (claim 2, 24, and 30, lines 1 and 2). There is insufficient antecedent basis for this limitation in the claim. A " security alarm **system** " has not previously been identified in the claims

Claims 2, 24, and 30 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

*Regarding claims 2, 24, and 30, the limitation of " In combination, a toy and a security alarm, comprising said security alarm system for toy comprising a controller .....unarmed states " is confusing. Is applicant claiming a security alarm system in a toy or a toy and a security alarm comprising a security alarm system ?*

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 24, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al (US 4,754,255., hereinafter Sanders) in view of Applicant's admitted prior art (page 1 of the specification).

Regarding claims 2, 24, and 30, Sanders teaches a user identifying vehicle control and security device which comprises a security alarm device ( figure 3 ) comprising a controller ( 38, figure 3 ) and having an armed state and an unarmed state, the controller being responsive to a signal input to at least one input thereof to cause the security alarm device to selectively assume the armed and unarmed states (paragraph bridging col. 4, line 54 through col. 5, line 10); a signaling device coupled to the controller and responsive to provide an audio or visual alarm signal (paragraph bridging col. 10, line 63 through col. 11, line 2); the controller causing the signaling device to provide an alarm signal with a change of state of the security alarm device between its armed state and its unarmed state (col. 5, lines 14 - 43).

Sanders teaches all the limitations, but fails to specifically teach that such security alarm system in a toy vehicle.

Applicant admits in the background that toy designers seek to provide toys which replicate real life such as toy vehicles. Applicant also mentions that miniature toy vehicles are sold which seek to replicate in appearance the full-scale real life versions down to minute details by providing somewhat larger than miniatures with sound effects by remote control (see second paragraph of the specification). It is known that real vehicles use sound effects as a security alarm system. Sanders further shows real vehicle operations using a remote control as mentioned above.

Therefore, it would be obvious to replicate real vehicle operations as evidenced by admitted prior art for the purpose of providing a toy vehicle security alarm system.

#### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (703) 308-8547. The examiner can normally be reached on M-TH 7:30AM - 6: 30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703) 308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yves Dalencourt

*Y.D.*  
October 21, 2004

*Salih*  
SALEH NAJJAR  
PRIMARY EXAMINER